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RL:0094³⁹⁵

HR 372 REQUESTING REVIEW OF FISH AND GAME REGULATIONS

Statement for
House Committees on
Transportation
and
Ocean and Marine Resources
Public Hearing - 1 April 1980

By
Doak C. Cox, Environmental Center

HR 372 would request that the Department of Land and Natural Resources review its Fish and Game Regulations. This statement on the resolution does not reflect an institutional position of the University of Hawaii.

As recognized in the resolution, there are a number of outdated, inconsistent, and inadequate State Fish and Game Regulations. Some of the problems with the regulations were pointed out last year by the Environmental Center in its review RL:0334, a copy of which is attached. To a certain extent, problems with its regulations reflect the underlying laws. For example, the inconsistencies were increased by the amendment of HRS 189-1 last year in such a way as to define "fish" as including seaweed. The new definition is not only quite at variance with the ordinary meaning of "fish," it also applies to the regulation of seaweed harvesting some legal provisions appropriate to fishing but quite meaningless with respect to seaweed harvesting.

We suggest that the Department be requested to review, not merely its Fish and Game Regulations, but also the statutory underpinnings for those regulations.



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RL:0334

SB 1553 RELATING TO FISH AND GAME PENALTIES

Statement for
Senate Committee on
Ecology, Environment and Recreation
Economic Development
Public Hearing, 26 February 1979

By
Doak C. Cox, Environmental Center
Ray Tabata, Sea Grant
Richard Brock, Hawaii Institute of Marine Biology

SB 1553 would amend provisions in six chapters of Hawaii Revised Statutes that relate to penalties for the violation of fish and game regulations. This statement on the bill does not reflect an institutional position of the University.

For convenience, the present penalties for fish and game regulation violations are compared with the penalties proposed in SB 1553 in an attached tabulation. Most of the present penalties were established long ago, and at different times, so that they have been devalued by inflation, and there are inconsistencies in severity. The general upward revision and some equalization of the penalties is thus appropriate.

A few aspects of the revisions proposed in SB 1553 deserve the attention of this committee, however.

- 1) All imprisonment penalties would be deleted by the proposal, even in the case of violations that were originally considered so serious as to warrant possible imprisonment of as much as six months (violations of HRS 188-11, 188-24, 188-30.2, 188-34, 188-35, 188-56, 188-13) or a year (violation of endangered species provisions, HRS 195-D). In the light of present prison conditions, imprisonment is a very serious penalty, and rarely justified, but one possibly justified in the case of flagrant violation of the most important prohibitions.
- 2) Minimum fines would be proposed for a considerable number of kinds of violations for which only maximum fines are now prescribed. In the case of the smaller minimum (\$25), the embarrassment and inconvenience of court appearance may be more of a deterrent than the fine, and the requirement of the fine may be ineffective and even counter productive.

- 3) Some penalties pertain to prohibitions of which there is little public recognition or rationale. Tadpole catching is, for example, a fairly common occupation of children, but even on a small scale and in private ponds, it is prohibited in HRS 188-64, and would be subject to fines of not less than \$25 under HRS 188-67 if amended as proposed.

Changes in penalties proposed in SB 1553

HRS Sec.	Violations of provisions relating to	Penalties					
		Fines, \$				Imprisonment, days*	
		Present Min.	Max.	Proposed Min.	Max.	Present Min.	Max.
188-11	Summaries		500 ^{a)}	100	500		182
187-20	Other than provided elsewhere		500	100	500		
188-2	Fishing tabu		15 ^{c)}		25 ^{c)}		
188-13	Private fishing rights		100	25	500		
188-14	Private fishing rights		100	25	500		
188-21	Fishing with explosive & use of toxic substances		500	100	500		150
188-24	Use of explosives	50	500	100	500		182
188-25	Spearing	10	50	100	500	10	20
188-29	Netting	25	200	100	500		50
188-30	Illegal nets	25	200	100	500		50
188-30.2	Net set duration	100	500	100	500		182
188-32	Netting for aquariums	10	100	25	500		60
188-33	Flail fishing Molokai		200	25	500		182
188-34	Netting, Honolulu, Hilo		250	100	500		182
188-35	Fishing, Waikiki, etc.	25	200	100	500		182
188-36	Fishing, marine lab refuge	10	100	100	500		30
188-39	Fishing, Leeward Is.	25	200	100	500		90
188-42	Fish size and dried nehu	25	200	100	500	5	50
188-43	Hinana trapping	25	200	100	500	5	50
188-44	Mullet fishing		500	100	500		100
188-45	Nehu, i'ao		200	100	500		50
188-46	Opelu	25	100	25	500		
188-48	Fish introduction	10	100	100	500		90
188-52	Fish introduction		200 ^{d)}	100	500 ^{d)}		60
188-54	Entry, fishing reserves	10	200	25	500		90
188-54.2	Fishing permit, reserves		b) e)	100	500 ^{e)}		
188-56	Seals	100	500	100	1000		182
188-57	Crustaceans	100	500	100	500	5	50
188-59	Crustaceans with eggs	10	100	100	500	10	30
188-61	Pearl oysters		500	100	500		182

188-67	Frogs and tadpoles	5	50	25	500		
189-4	Commercial fishing licenses	25	200	100	500	5	50
189-13	Fish-catch reporting		500	100	500		180
189-14	Inspection	25	200	100	500	5	50
191-6	Hunting licenses	25	200	100	500	5	50
191-10	Game bird taking	25	200	100	500	30	90
191-13	Wild bird catching	25	200	100	500		90
191-14	Wild bird captivity	25	200	25	500		30
191-15	Pigeon shooting		25	25	500		50
191-18	Hunting, private lands	5	100	25	500		90
191-21	Mammal hunting	25		25	500		
191-23	Permits, game reserve entry	10	200	100	500		90
191-24	Night hunting	a)		100	1000		
192-10	Shooting preserves		100	100	500		90
195-8	Natural area reserves		100	100	500		30
195D-9	Endangered species		1000	100	1000		365

*Imprisonment penalties prescribed in months or years are given in day-equivalents.
Present imprisonment penalties may be imposed separately from or in addition to fines.
The amendment proposed would delete all imprisonment penalties.

- a) Misdemeanor
- b) Petty misdemeanor
- c) Plus value of fish caught
- d) Plus license cancellation
- e) Plus forfeiture of gear